GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – West Godavari District - Revision Petition filed by Sri Vundavalli Venkata Rao(W/o Kanaka Durgamma-Died) S/o V. Rattaiah and 2 others, R/o Gangavaram (V) Antharvedigudem post, Buttaigudem(M), West Godavari District against the orders of Agent to Government, West Godavari District, dt:04-09-2010 in SRA. No.40/2003 with regard to AC 7.68 cents in RS Nos. 195/2, 195/3 and 179/2 at Gangavaram (V), Antharvedigudem (post), Buttayagudem (M), West Godavari District – Status quo – orders – issued.

SOCIAL WELFARE (TW.LTR-1) DEPARTMENT

G.O.Ms.No.75 **Dated:21.08.2017**
Read the following:-

1. Revision Petition filed by Sri Vundavalli Venkata Rao(W/o Kanaka Durgamma-Died) S/o V. Rattaiah and 2 others, R/o Gangavaram (V) Antharvedigudem post, Buttaigudem(M), West Godavari, dated:23.09.2010.
2. Govt. Memo.No.9553/LTR-1/2010, dt.22.11.2010.
3. From the Agent to Government/ District Collector, West Godavari, Eluru Roc.No.92/2011/F2, dt.09.02.2011.
4. Govt.Memo.No.201671/LTR-1/2016, dt.20.12.2016.

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ORDER:-

In the reference 1st read above, Sri Vundavalli Venkata Rao(W/o Kanaka Durgamma-Died) S/o V. Rattaiah and 2 others, R/o Gangavaram (V), Antharvedigudem post, Buttaigudem(M), West Godavari District has filed Revision Petition before the Government against the orders of the Agent to Government, Eluru, West Godavari in SRA. No.40/2003, dt:04-09-2010 with regard to Land Ac. 7.68 cts in Rs. Nos. 195/2, 195/3, 179/2 at Gangavaram (V), Antharvedigudem, Buttaigudem, West Godavari District.

Brief facts of the Case:-

2. The Special Deputy Tahsildar, KotaRamachandrapuram had filed a complaint before the Special Deputy Collector (TW) regarding the lands in Sy.Nos. 195/2, 195/3, 203/1, 3, 4 and 179/2 an extent of Ac 12.82 are in possession of non-tribals which is against the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 and requested to eject them and handover the same to landless poor Tribals. The Special Deputy Collector disallowed the claim. The Special Deputy Tahsildar here, in appealed before the Agent to Government in SRA No.40 of 2003, the Agent to Government allowed the appeal in part i.e., in respect of land of Ac. 7.68 cents in RS Nos. 195/2, 195/3, and 179/2 were concerned. In other respects the appeal was dismissed by an order dt. 04-09-2010. The appellate court order in so far as the portion of order allowing the appeal is concerned the present Revision Petition present is filed for the following grounds:-

GROUNDS OF APPEAL AS SUBMITTED BY THE REVISION PETITIONER:

- The petitioner submits that the order of the 3rd respondent (Agent to Government) is contrary to law, weight of evidence and probabilities of the case.

- The petitioner submits that the lands in issue were originally belonged to one Adabala Ramachandrudu who was a non tribal. He sold subject lands to Jangala

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Gangaiah under registered sale deed dt.12/05/1937. The purchaser there under was also a non tribal. He in turn sold the said lands to Kosuri Pedda rajulu and Chinna Rajulu under a registered sale deed dt:22/06/1942. The purchaser there under was also a non tribal. They in turn sold the said lands to K. Seetharamaiah under registered sale deed dt:25/08/1953. The competent Authority i.e., settlement Officer, Kovvur granted rituwari patta in SR No. 44/96 (Reg. 2/70) Dt:4/07/1997 in favour of the deceased 1st petitioner(Vundavalli Kanaka Durgamma). The said K. Seetharamaiah who is also a non tribal died intestate leaving his daughter V. Kanaka Durga to succeed to his estate. Thus the deceased 1st petitioner(Vundavalli Kanaka Durgamma) became absolute owner, possessor and enjoyer of said lands. All the said transactions have taken place only among non tribals. There was no contravention of any of the provisions of Andhra Pradesh Scheduled areas Land Transfer Regulation 1 of 1959 as amended by Regulation 1 of 1970 under the aforesaid transactions. Without taking the above transactions in to consideration the 3rd respondent (Agent to Government) committed serious error of law on the face of the Order while allowing the appeal in part.

- The petitioner further submits that the 3rd respondent (Agent to Government) failed to see that issues were already decided in SR No. 96/96 on the file of 2nd respondent(Special Deputy Collector (TW)) on the complaint lodged by 1st respondent(Special Deputy Tahsildar). 2nd respondent (Special Deputy Collector (TW)) disallowed the claim of 1st respondent(Special Deputy Tahsildar) in that complaint. As such further complaint in respect of the very same lands in SR No. 2064/2000 is barred by doctrine of resjudicata. 2nd respondent (Special Deputy Collector (TW)) rightly held so. 1st respondent (Special Deputy Tahsildar) did not refer to such adjudication while incorrectly allowing the appeal in part.

- The 3rd respondent (Agent to Government) committed grave illegality and irregularity in allowing the appeal in part against a dead person i.e., deceased 1st petitioner herein who died pending appeal. The 1st respondent (Special Deputy Tahsildar) herein being appellant did not any steps for bringing legal heirs of deceased respondent therein as parties to the appeal. As such any order passed against dead person is null and void under law. The petitioners 2 to 4 herein being legal heirs of deceased 1st petitioner are assailing the impugned order.

- The petitioner finally submits that the 3rd respondent(Agent to Government) acted beyond the authority and jurisdiction on him when she inspected the lands in dispute and concluded and reported that the lands were in possession of the Tribals. The petitioners are in possession and enjoyment of entire extent and as such the impugned order is liable to be set aside.

3. The Government have admitted the said Revision Petition and in the reference 2nd read above has requested the Agent to Government, Eluru, West Godavari District to furnish the parawise remarks and connected records on the Revision Petition.

4. In the reference 3rd read above, the Agent to Government/ District Collector, West Godavari District, Eluru has furnished parawise remarks along with the connected records.

5. Government after careful examination of the Revision Petition in pursuance of the records received from the Agent to Government and written arguments of the petitioner and after hearing the arguments both the sides, it is observed that this revision is filed under Sec.6 of APSALT Regulation 1 of 59 as amended by 1 of 70. Feeling aggrieved by the Orders of Agent to Government and District Collector, West Godavari District, Eluru, where under the land measuring a total extent of A. 7.68 Cents in survey numbers 179/2, 195/3, 195/2 was held belongs to Tribals. In fact, in the impugned Order of Agent to Government dt: 4/9/2010, the learned Agent to Government dismissed the appeal as in the lands 203/1, 203/3 and 203/4 measuring a total extent of A.5.14 cents and allowing the appeal as far as A.7.68 cents.

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6. Now, the point of consideration before the Revisioner Authority is whether the Order of Agent to Government, allowing the appeal in respect of the land measuring and extent A.7.68 cents is liable to be confirmed or to be set aside. No doubt, the finding of Special Deputy Collector that the proceedings before him are barred by Res-Judicata is incorrect in view of the fact that APSALT Regulation is a special enactment which has overriding power as contemplated under 3 of the said Regulation. Therefore, admission of the appeal is correct.

7. But the learned Agent to Government, did not go through the entire record and the finding of her that the land measuring an extent A.7.68 Cents in R.S.No 179/2, 195/2 and 195/3 as be assigned to tribals and tribals are in possession appear to be incorrect in view of the fact that the Settlement Officer, Kovvur on remand from Director of Settlements, Hyderabad, by his Order dt: 4/7/1997 in S.R.No-44/96 (Regulation 2/70), granted Settlement patta in favour of Smt. Vundavalli Kanaka Durgamma in respect of the land measuring an extent of H.A. 0.94 Ares and the copy of the same was filed before the Government. On the other hand, no record is placed to show when and how the above lands are assigned to tribals and who those tribals are.

8. If a Rituwari Settlement Patta is granted, the tribal authorities cannot evict a person from land except by due process of law. The record also does not disclose the fact as to whether the said Order of Settlement Officer granting rituwari settlement patta in respect of the above land was appealed before the Director of Settlement under/Section 9 of A.P. Schedule Area Rituwari Settlement Act before DOS. Hence in the absence of an appeal said Order becomes final.

9. The Government has a Revision authority is bound to maintain rule of Law and non-consideration of the records by learned Agent to Government amounts to violation of both the law and also Principles of Natural Justice. It is the basic principle of law that a person cannot be evicted except by due process of law. (2004) 1 Supreme Court Cases 769 full bench at page 776. Further, the Hon'ble High Court & Supreme Court had held several times, the statutory authorities who are determining the rights of parties in immovable property shall act judiciously and principles of natural justice must be followed scrupulously.

10. The learned agent did not examine the sale deeds which are prior to 1959 executed in favour of the predecessors in title of Kothari Seetharamaiah, who is the father of Vundavalli Kanaka Durgamma.

11. No doubt, the Regulation is meant for the welfare of tribals, but the pattas granted U/A.P. Schedule Areas Rituwari Settlements in favour of non-tribes cannot be disregarded. The lands mentioned in the Order of Settlement Officer are in Hectares and Areas. It is significant to note that one Hectare is equal to 2.5 Acres. Therefore, the settlement Patta granted in favour of Vundavalli Kanaka Durgamma in respect R.S. No. 179/2 measuring H.A. 1.90, which is equivalent to Acres 7.72 cents as the land allowed by Agent to Government is the same survey number with an extent of Acres 7.68 Cents. Therefore, the Government is of the view that the Settlement Patta relied on by the revision petitioners is also in survey Number 195/2, 195/3, 179/2 and its total extent comes A.7.72 Cents.

12. The further contention of Revision petitioners is that they have been in possession of Schedule Property from several decades openly and continuously.

13. Having gone through the entire record, the Government is of considered view that, the Order of Agent to Government dt: 4/9/2010 allowing the appeal in part is grossly unsustainable and hence liable to be interfered with, more in view of the fact that the Principles of Natural Justice are found to have been violated. Since the parties are not properly heard and the documents and the revenue records concerning the schedule property are not properly examined.

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14. In the result, the appeal is allowed in part, the matter is remanded to Special Deputy Collector (T.W.), KotaRamachandrapuram, West Godavari District, to conduct enquiry a fresh, giving opportunity to both the parties by examining the entire record in the public office and to pass orders according to law.

15. However, the said exercise shall be made within 3 months from the date of receipt of this Order. In the meanwhile, there shall be status quo with regard to possession.

16. The original records bearing SRA. No.40/2003 and SR.No.2064/2000 received from the Agent to Government/ District Collector, West Godavari District, Eluru through reference 3rd read above, is returned herewith and he is requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P. SISODIA
PRINCIPAL SECRETARY to GOVERNMENT

To:
The District Collector & Agent to Government, West Godavari District, Eluru. (w.e. original record)
The Special Deputy Collector(TW), Kotaramachandrapuram, West Godavari District (w.e.)
The Mandal Revenue Officer, Kotaramachandrapuram(M), West Godavari District(w.e.)

Copy to:
Sri S. Verraiyya and K. Satyanarayana Rao, Advocate,
H.No. 8-13/2, 4th Road, Maithri Nagar, Dilsuknagar, Hyderabad.
Sri Vundavalli Venkata Rao (W/o. Kanaka Durgamma - Died) S/o V. Rattaiah, R/o Gangavaram (V) Antharvedigudem post, Buttaigudem(M) West Godavari District.
Sri. Yeleti Syamala, W/o. Suryachandra Rao, R/o Gangavaram (V) Antharvedigudem post, Buttaigudem(M) West Godavari District.
Sri. Alapati Lakshmi, W/o. Satyanarayana, R/o. Gangavaram (V) Antharvedigudem post, Buttaigudem(M) West Godavari District.
The P.S to Hon'ble Minister (SWE & TWE) for information.
The P.S to Principal Secretary to Government (TW)
SF/SC.

//FORWARDED::BY ORDER//

SECTION OFFICER